

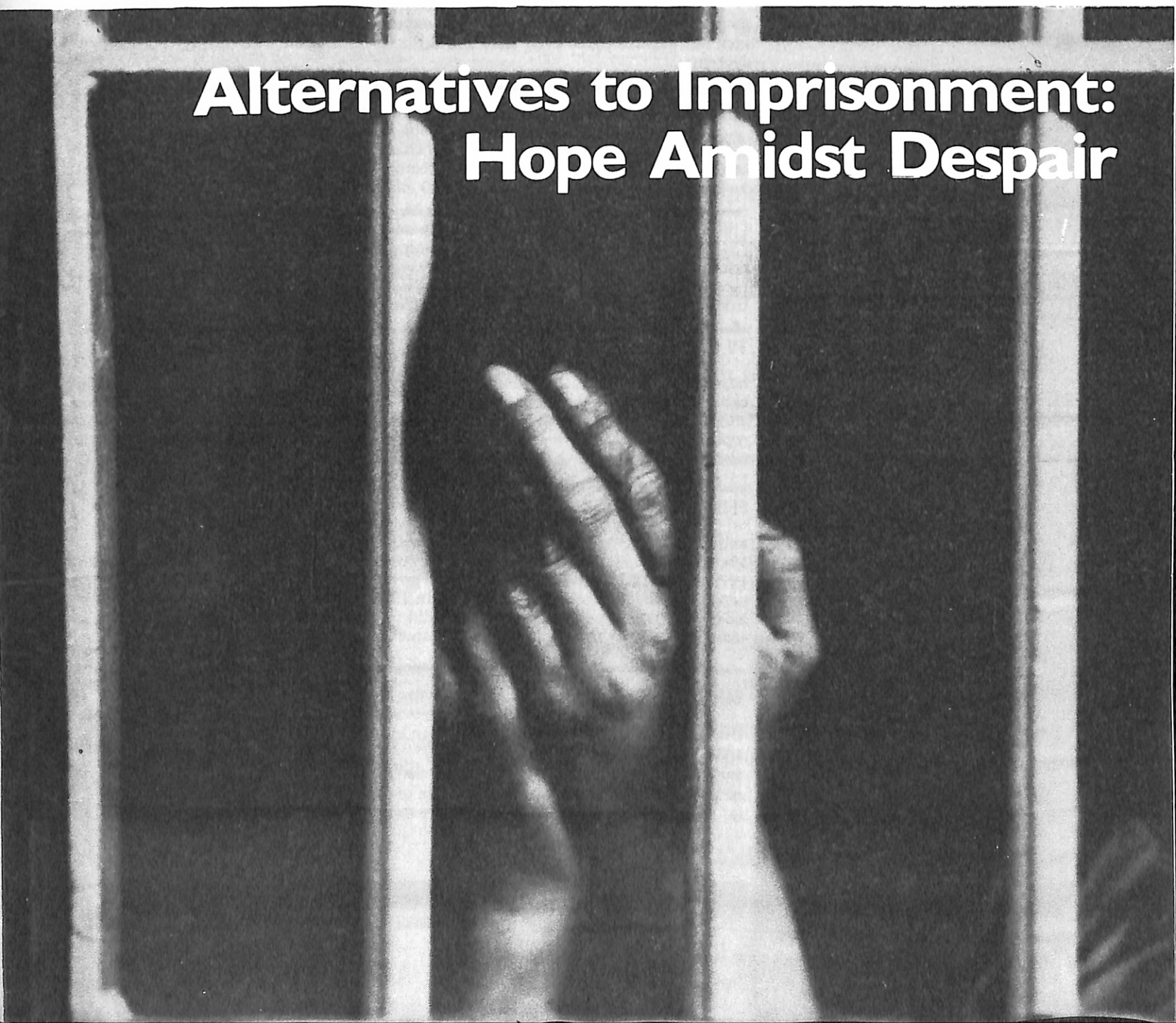
Volume 15, Number 91  
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# FOCUS

## MIDWEST

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**Alternatives to Imprisonment:  
Hope Amidst Despair**





# out of focus

*Readers are invited to submit  
items for publication,  
indicating whether  
the sender can be identified.  
Items must be fully documented  
and not require any comment.*

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**MEATY NEWS** The General Accounting Office (GAO) pulled a fast one on the meat packing industry when it made several unannounced plant inspections between June 1980 and Jan. 1981. Its findings: More than a quarter of the plants were not in basic compliance with one or more of the six inspection-program requirements.

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**PRO DETROIT LEWIS** In an effort to strike-up better relations with the auto industry, Transportation Secretary Drew Lewis quashed a scheduled reprint of "The Car Book," which was popular with consumers but a bur on the back of Detroit. Lewis called the book "anti-industry" and said it contained errors and outdated information. Ralph Nader called the action "a radical move against the consumer."

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**\$ FOR ENERGY** America shelled out a whopping \$387 billion in 1980 for energy, compared to \$83 billion in 1970. What in blazes happened? OPEC for one, higher utility expenditures for another. And of course, the Midwest, along with the Northeast, is the land of the highest utility bills.

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**MORE TAXES** Wage-earners will pay as much as \$195.75 more in Social Security taxes next year as a result of a tax rate increase scheduled to go into effect Jan. 1. The new rates are expected to raise an additional \$4.8 billion, but experts agree even that will do little to bail out the deeply troubled system.

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**EPA WATERED DOWN** It looks like Reagan appointee Ann Gorsuch is doing a bang-up job at the Environmental Protection Agency (EPA). Since her confirmation in May of this year, the agency has referred only ten cases to the Justice Dept. for enforcement action. Prior to then, the EPA had been responsible for upwards of 200 cases per year.

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**LIVING ROOM PIRATES** Based on an appeals court ruling in San Francisco this October, a person sitting in his or her living room is criminally liable if they're recording a television program off the air with a video recorder. Copyright infringement was the court's logic. Legislation has been introduced in both houses of Congress that would overrule the ruling.

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**TV SNOOPERS** While television viewers may be delighted with the emerging video cornucopia on their screens, they'll squirm when they hear about the associated privacy intrusions. With marvelous technologies like cable, computers and viewdata arriving on the scene, privacy in the home is slowly being chipped away in four specific ways warn experts: intrusion, interception, misuse of information and collection of individual and household information.

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**FEDERAL MONSTER MYTH?** Contrary to public perception, the greatest growth in government has been at the state and local levels, not the federal level, reports Congressman Paul Simon (Ill). In 1949, 13.9 out of every 1,000 Americans worked for the federal government; in 1979, it was 12.7. In 1950, state and local government employees represented 67 percent of the government work force; in 1979, 82 percent. In 1960, state and local government combined purchases did not match those of the federal government; in 1980, state and local government purchases were twice as much.

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**GOOD FOR FUNDRAISING** In its endeavors to defeat liberal opponents, the National Conservative Political Action Committee (NCPAC) has learned to fatten its coffers by stirring up furor among conservatives. Last spring, they asked conservatives via direct mail whether U.S. Senator Ted Kennedy should be targeted for defeat in 1982. A resounding 77 percent of the respondents said yes, and a stream of dollars flowed into NCPAC. Actually, NCPAC doubts that they can defeat Kennedy—but it does raise funds.

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# letters

## What's wrong with our prisons?

*The following unsolicited letter was written by David A. Stoller, a current inmate at Missouri Eastern. Stoller, previously an inmate at the Central Missouri Correctional Center (CMCC), sent the letter to Missouri Eastern superintendent Col. Gerard Frey.*

*The first portion of the letter was written at CMCC; the second at Missouri Eastern. Stoller's overall perception of the problem of corrections is remarkable. Here, he contrasts prison life in an older institution versus Missouri Eastern and its new approach. (The letter underwent minor editing for clarity.)*

August 4, 1981

After the experience of having been incarcerated for over a year, I've come to the conclusion that the quality of most inmates entering and leaving the division of corrections is just about the same—rotten! Maybe worse!

I feel that the true failure lies with the typical institution's staff. Not that they do anything wrong—in fact, they often admit and try to reconcile their mistakes—but that there really aren't enough of them.

The guards have little incentive and are too few in numbers. The case-workers and counselors are overworked and spend most of their time on disciplinary problems rather than counseling and working cases. Education officers have little opportunity to provide meaningful rehabilitation because, quite simply, there is no money in the budget for them or their programs.

The institutions are so understaffed that sometimes it is hard to find a guard! One night my partner and I (you never go anywhere alone in the penitentiary) witnessed a knife and pipe fight in the main corridor. We called it the "Seven Hall Massacre." The fight involved eight armed principals. Knives were stabbing, pipes were thumping, someone was viciously swinging a machete and lots of people were hurling billiard balls like major league pitchers. Several innocent bystanders were struck and injured—they didn't even know what was happening.

I wanted to report the incident as soon as I escaped the crossfire—there was blood all over and people were dying. When my partner finally located the duty captain and informed him of the melee, the captain quickly got on his walkie talkie and ordered

his subordinates to the area with first aid kits and made arrangements for transportation to the hospital.

I returned to my hall, which was quickly locked down for an institution-wide weapons search. The shake-down failed to produce the two and half foot machete, but did produce an assortment of other unused weapons. But none of the weapons used in the "Seven Hall Massacre" were recovered. Thanks to the captain, none of the inmates died—it was a wonder.

Last night was a real panic! An inmate smashed in the steel door of the canteen (our grocery store!) with a hundred pound dumbbell. A swarm of no less than 150 inmates gathered like a school of sharks at a feeding frenzy as the cases of cigarettes (retail \$330 each) were thrown out into the main corridor to be snatched up by anyone with enough heart to plunge into the riotous crowd. The feeding frenzy lasted for over 20 minutes and was interrupted not by the guards (I never saw one) but by the routine blowing of the "count-time" siren.

How these and many other similar events could even take place is probably more than a little puzzling to most people—but not when you stop to think that there just aren't enough guards to watch us and keep us under control. Maybe those on duty are provided with such little incentive to be ambitious—it is a dangerous job. After all, we're not nice people.

Or is it simply frustration?

Your average inmate has seldom been accused of being dumb. In fact, it is generally accepted that they are by and large a rather clever lot—criminal clever. If the institution could increase its staff or its use of technology, then maybe the guards could outsmart and outmuscle the 480 of us who run loose behind the walls and fences of this institution (CMCC). But as it stands, the 16 of them are outmatched!

Now with the environment we are allowed to create for ourselves, even those of us who are least malignant and would most like to reform, we quickly harden. In an effort to survive we choose up sides, and of course choose the side that is strongest. Inevitably, we regress from residents to inmates to become quite simply—convicts. We run most typical institutions. We can do anything we want except rehabilitate ourselves and leave (although there are exceptions to the last two statements—not the first.) We become animals even if we are not already.

Nov. 12, 1981

But alas, I heard a rumor that the

great state of Missouri is trying a noble experiment. There is a place called the Missouri Eastern Correctional Center. "Pacific" for short.

Here they are trying one more shot to reshape the division of corrections into a workable, successful and productive program.

And so far, at first glance, at the beginning of the experiment, things look good. The experiment seems to have a bright future.

The first thing that strikes you about the place is its fine appearance. Buildings of modern and "civilian" architecture stretch out across an appealing landscape that gives the impression of a small, yet spacious junior college campus—until, of course, you notice the double barbed wire fences and gun towers.

The next thing you notice (or at least an inmate notices) is the lack of tension. The atmosphere is calm. Controlled calm, not accidental or appeasement calm. It may have something to do with the ostentatious (though not inordinantly expensive) amount of area delegated to educational and recreational facilities. Maybe it lends hope to the inmate, helping to quell his frustration.

But don't let the campus architecture and atmosphere fool you. The place is designed quite strategically and technologically to favor the guards, in contrast with some of the older institutions. It is possible and quite practical (and practiced) for 16 guards to watch every room (we don't have cells, but the doors can be securely locked from the outside) in the 512 room institution.

The remainder of the institution seems equally well under constant observation by another dozen or so guards.

In short, I get the feeling that the guards run this whole place—not just the fence. And as odd as it may sound for an inmate to say so—that makes me feel comfortable.

I can relax and let the animal that grew in me at other institutions go back to sleep. I can relax and pay attention to more important things like taking advantage of the many meaningful rehabilitation programs available here; find a satisfying and rewarding skill or vocation and become a member of society instead of its antagonist.

Of course, this place won't rehabilitate us all. But at least those of us who want to rehabilitate ourselves will be able to take advantage of the programs, atmosphere, privacy and control offered by this institution—and become a little better grade of person than we were.

David A. Stoller

FOCUS/Midwest



## ***Majority favors ERA***

The Equal Rights Amendment (ERA) appears to be floating in limbo. It is still three states short of ratification with only a year left in the extended ratification period. The polls show resounding support for the amendment on the national level, as well as in both Missouri and Illinois—two non-ERA states.

So what is the hang-up? State legislatures, that's what.

Under the shadow of a conservative administration, many allegiances change, especially when it comes to getting oneself reelected.

Based on a perceived conservative shift in the country, many legislators are playing it safe by being vague or non-committal in their support of the amendment.

In this particular instance, polls don't mean a lot, because support for the amendment would certainly *look* bad to conservative dishevelers around the nation.

Thus, we are faced with a crisis of sorts, a crisis in backbone.

Ironically, many of the same legislators might sway toward the amendment if corresponding pressure was put on them by well-organized pro-ERA groups.

## ***Reagan keeps people off government's back***

Ever since Presidential Counselor Edwin Meese praised the highly-publicized Heritage Foundation report urging removal of restraints on domestic intelligence gathering, a shadow has been cast over personal liberties in America.

Meese said several of the suggestions found in the report would be considered by the new administration, including one which would greatly increase surveillance of domestic radical groups by using surreptitious infiltration and illegal information gathering techniques. And these would be only the first steps.

Recently, the Reagan administration made good on its intentions. On Nov. 6, President Reagan signed an Executive Order giving U.S. intelligence agencies increased powers to collect information on Americans. Government snoopers are now free to examine credit, bank and other personal records, as well as employ informants—all in pursuit of "significant foreign intelligence." Domestic-based foreign corporations and American cor-

porations abroad now are targets of even more intelligence scrutiny.

Coupled with these developments is the incipient effort aimed at truncating the Freedom of Information Act (FOIA). Adopted in 1966 and strengthened in 1974, the FOIA has been the bedrock of accountability in government. Indeed, it is the envy of many other democracies. The act has been instrumental in uncovering abuses by the CIA, FBI and other government agencies.

Under the Reagan administration, Congress is being prodded to strip the FOIA of much of its efficacy.

Bobby R. Inman, deputy director of the CIA, said during Senate Select Committee on Intelligence hearings that his agency along with the National Security Agency (NSA) should be completely exempt from the act since the nature of their work is "necessarily secret." Inman also said FOIA requests drain his agency of resources and personnel.

It is certainly not difficult to see an emerging pattern: reduced governmental accountability and stepped-up domestic spying. FBI Director William Webster has been pressured by critics of the FOIA including Samuel Francis, editor of the *Heritage Report*, and Jeremiah Denton, the reactionary Alabama senator and head of the Senate Judiciary Subcommittee on Security and Terrorism, to relax guidelines which restrict investigation of so-called domestic radicals. Webster, however, has remained reluctant to do so, and should be commended for not buckling under.

It is hardly surprising to see the Reagan clique unleash U.S. intelligence agencies, based on the same old xenophobic notion of "foreign intelligence" gathering. It is surprising, however, to see the same agencies unleashed with such unabashed zeal on the American people. And it is downright shocking to watch the means stripped away to make these agencies accountable to American citizens.

It is a step backward for the Republican Party. And although the snoopers have been unleashed, the ability to scrutinize them—the FOIA—is still at hand. A concerted effort must be mounted by all—including traditional Republicans—to protect the act from those extremists who would rob it of its effectiveness in safeguarding our basic freedoms.



*During the past five years, more prisons have been built than at any other time in our nation's history. And despite their infamous record of failure, the trend continues as our society rapidly forges a prison-oriented mentality with few—if any—alternatives to offer.*

*Yet alternatives do exist, having recently captured attention in the face of a senseless build-up of an already vast prison wasteland. Bolstered by a wave of court-ordered reform, alternatives have emerged at every level of the prison scheme and are receiving serious consideration by those determined to provide sensible, economical and humane incarceration of offenders.*

*In this, the second of two special issues, FOCUS/Midwest brings the issue of prison alternatives to our readers, in the hope that an informed public can support the sweeping changes needed to insure that every offender is given a reasonable chance to change his or her behavior through rehabilitation and a positive, supportive environment.*

*Presented are a series of reports and essays by nationally-known proponents of workable alternatives to imprisonment. Included is an in-depth look at Missouri's own alternative prison effort, Missouri Eastern Correctional Center.*

*Several national contributors came through with material for this issue despite their regular duties and commitments. Locally, FOCUS/Midwest is especially indebted to Scott Decker, an assistant professor of Administration of Justice at the University of Missouri-St. Louis, whose advice and consultation proved invaluable in gathering the divergent aspects of alternative corrections.*

*The ideas presented here and in the previous issue (Numbers 90 and 91) are climbing to the top of the social agenda in America. Collectively, they represent a call to action over problems in our criminal justice system that must ultimately be confronted. The result, hopefully, will be a reasoned approach to punishment that is both sensible and humane in its treatment of offenders.*



# A reasoned approach to punishment

By Robert L. Smith

A rising crime rate and an understandable public fear of crime have prompted lawmakers to "get tough" on crime. But harsher public policy, determinate sentencing and increased sanctions have not and cannot decrease crime in America.

In fact, they have aggravated the traditional problem of trying to confine a large number of offenders under conditions that are humane, safe, fair and constitutional. Limited human and fiscal resources require that institutionalization only be used for public safety or for any possible deterrent effect.

Only a small portion of the present prison population would be classified as residual—that is, those persons who require ultimate control for public safety. These offenders are usually dangerous, violent, prone to recidivism and hard to treat. Sometimes they are psychologically disturbed.

While they must be isolated from society (and frequently from each other), they comprise only a small portion, 15-25 percent, of the total prison population. For the remaining offenders, a wide range of alternatives exist that are cost-effective and safe.

Prisons have long been burdened with the myth that crime is somehow limited to or caused by the success or failure of the correctional system. Imprisonment *per se* has virtually no impact on crime rates, since the majority of criminals are neither arrested, prosecuted nor convicted.

Less than 25 percent of all felony crimes are cleared by police. Of that percentage, less than three percent

are placed under correctional care. In other words, 75 percent of all felonies are not dealt with at all by our criminal justice system. Even with a magical 100 percent correctional success rate, crime on the streets would not be affected since the total number of imprisoned is too small in relation to the total number of people committing crimes.

The paradox between the perceived and real impact of imprisonment is rooted in public ignorance. Just because the public *thinks* excess custody reduces crime, we waste expensive resources—prisons—on those who do not need this level of control or punishment.

Numerous alternatives exist that present intelligent practicable solutions.

## PROVEN ALTERNATIVE APPROACHES

A wide range of *proven* alternatives to imprisonment include *unconditional discharge, probation, fines or restitution orders and community service orders*.

Still others are hybrids that combine features of incarceration with less restrictive programs. An example is *intermittent confinement*—at

night, on weekends, or on other periodic bases—with or without restrictions on unconfined activity. Convicted offenders might, for example, be permitted to maintain full-time employment while spending nights, weekends, or both, in a correctional institution. Conversely, offenders might be required to attend an institution-based work or educational program during the day, while spending free time at home.

Other, more severe options involve the "split-sentence," consisting of a short period of confinement, usually less than six months, coupled with a term of probation. The split sentence option is primarily an alternative to longer periods of otherwise debilitating incarceration.

Other major alternatives to long-term prison sentences consist of procedures that shorten the period of full-time incarceration or seek to reduce its impact. Parole and other conditional release programs are the primary term shorteners. Graduated release programs can also shorten the prison stay. Day release, educational and vocational furloughs all help to shorten the offender's stay in prison, while offering some respite from its rigors. The paramount goal is to present a number of non-institutional based programs in order to sidestep the megaprison altogether.

In trying to distinguish among community-based and institution-based programs, experts suggest that such labels as halfway house, group home, shelter care facility, camp, ranch, or similar formal descriptions of programs are not very helpful.

The key to successful reintegration of offenders into communities lies in the extent and quality of their relationships with the community. This includes social, personal, family and

(continued on page 22)

Page Seven

**A recent study found that if cells are available, they will be filled.**

Robert L. Smith is the Assistant Director of the National Institute of Corrections in Washington, D.C.

# Missouri Eastern: Hope for prisoners

By Lauren Markow

Build more prisons!

Regardless of the demonstrated failure of the prison system in this country, that policy remains consistent. It was the driving force behind the recent completion of the Missouri Eastern Correctional Center.

Missouri Eastern is a 512-room, medium security prison located 35 miles west of St. Louis in Pacific, Missouri; it represents the state's ninth investment in the prison business. Touted by Missouri officials as innovative and responsive to "the state's most urgent criminal justice need," the \$25-million prison received its first inmates recently.

The lofty goals of Missouri Eastern depend on one assumption: that it will not become overcrowded. The prison itself was constructed in part to relieve inmate overcrowding elsewhere in the state.

David Blackwell, acting director of the division of Adult Institutions says, "We'll hold the best hopes for Mo. Eastern. Of course, it could deteriorate rapidly if it gets congested," adding, "It's an expensive proposition, but by the time you get one prison built, you'll need two more."

## Prison management

A "programmatic" management style will prevail at the new prison as administered by superintendent Gerald T. Frey. A retired army colonel with a master's degree in political science, Frey has served as a parole board member, warden and prison executive in Delaware.

"We're not just an inch ahead of things," Frey said about the new prison, "we're five miles ahead of everyone. We're not responding to standards, we're creating them."

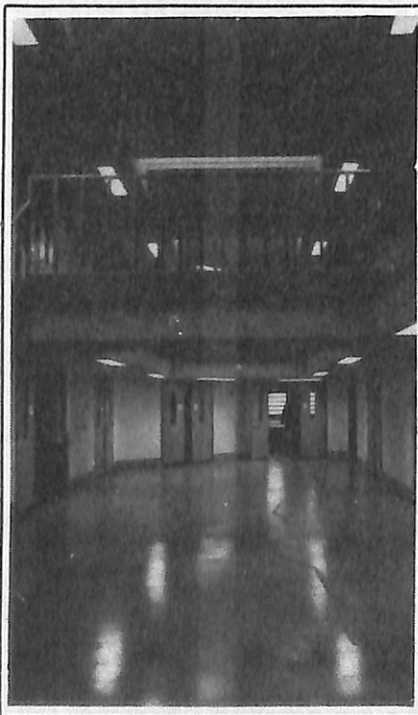
Missouri Eastern has four wings which house 128 men each. Sex offenders, violent criminals and drug

abusers are housed separately. The remaining units house other offenders.

Each unit is supervised by its own team of custodial and treatment staff members under the direction of a "mini-warden."

Inmates from elsewhere in Missouri filed applications to occupy the new facility in Pacific. Those with chronic medical problems and recent conduct offenses were ineligible. Otherwise, the inmate selection was screened to ensure that no high security risks were included.

The management at Missouri Eastern will try to cut back excessive leisure time or "dead time." Inmates will work paid eight-hour days in the prison furniture refinishing shop (wages will be based on quality and quantity of output), take vocational



Col. Gerard T. Frey

training or attend educational classes offered within the prison as sponsored by area colleges.

"The inmates here will work hard and they'll learn to appreciate leisure time rather than experience it as a way of prison life," said Frey, "The emphasis will be on responsible choices."

## Federal prison model

Missouri Eastern represents an effort to close the gap between the types of correctional environments offered by state and federal institutions. Traditionally, state prisons lag far behind in programs, training personnel and living conditions.

Similar to the eight federal prisons built since 1974, Missouri Eastern's layout utilized a campus design. The 40-acre campus of two-story brick buildings is surrounded by a maximum security perimeter consisting of razor-wired fence spotted with guard towers. According to Frey, this layout provides a medium security atmosphere in the prison, with a maximum security benefit to the citizens of Pacific.

Recruitment and training of guards for the Pacific facility are designed to meet federal standards. In the past, rural correctional institutions have been staffed largely by people from the immediate rural community. Located, however, within a 50-mile radius of St. Louis, a more "urbanized" group will comprise the Missouri Eastern custodial staff. The hope is that an ethnically mixed staff will mean better communication and cooperation from the largely urban, minority prison population.

Staff training took place in Pacific. "We had seven weeks of on-the-job training [which is] important to give everyone an idea of what the community was like," explained Frey,



"There are no traditions here good or bad, we'll make our own. But we do have standards." Frey said all staff members received training in CPR (cardio-pulmonary resuscitation) and hostage situations.

In addition to formal regulations, Frey intends to institute a few informal policies of his own. Inmates who misbehave will be given three reprieves prior to being reassigned to another institution.

While the cells house only one inmate each, they are expected to be kept clean and uncluttered. Inmates will be confined to their sub-unit residence only at night, and each carries his own keys.

"The attitude here will be firm but fair. A guy's got to make choices out there and we want an atmosphere here for good, responsible choices from living habits to work habits."

### Mixed opinions

While many Missouri officials share Superintendent Frey's enthusiasm about the new Pacific facility, others are less optimistic.

George "Buzz" Westfall, St. Louis County Prosecutor maintains "It's just a matter of time before Pacific is overcrowded. How can it be helped? It'll ease the situation for the other facilities for a while, but ultimately we'll need more space." Westfall said Missouri needs more prison space on all levels—minimum, medium and maximum security.

Construction of new prisons has always involved a tumultuous political process. Director Blackwell illustrates the point: "It's a simple notion. If you have X number of convictions you need X number of beds; we have to approach the legislature," he said, adding, "I wouldn't want to go down in history as someone who built more prisons, but if there's a need, there's a need."

The need for additional prison space in Missouri was initially perceived during the administration of former governor Warren Hearnes. The appropriation for a new prison, however, didn't come until 1976 during the final months of Christopher Bond's first term as governor.

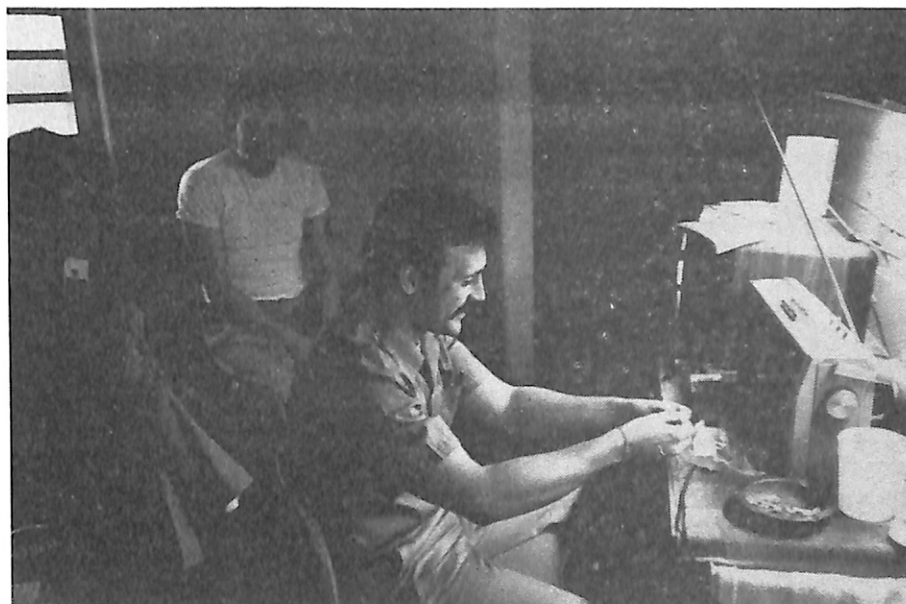
During the first year of the Teasdale administration, a battle flared over both the site and type of facility to be built. Essentially, both Bond and Teasdale supported the plan to put a medium security prison near Kansas City, and were supported widely by members of the House.

A loud public outcry coupled with heavy opposition in the state senate threw the plan into turmoil. The sen-

*(continued on page 23)*



Inmates in health care class



A couple of inmates visiting another in his room



Inmates show off desk they built in prison furniture shop

# A Bill of Rights for Prisoners

*"Before society can expect an ex-prisoner to become productive and independent, it must allow him the means for achieving independence."*

*The National Prison Project was formed in 1972 by the ACLU. It resulted from the consolidation of two smaller reform projects, one of which stemmed from the Attica prison riot of 1971. While neither of the earlier projects had any paid staff members, the national project has a full-time paid staff of 18, with 50 to 75 independent lawyers working on various prison lawsuits across the nation.*

1. We believe that no new jails or prisons should be constructed by local, state or federal officials until all possible alternatives to incarceration are examined and utilized. The cost of dealing with offenders, in other than a closed institution, will in the long run result in financial savings. Thus there should be maximum funding, staffing and utilization of non-institutional corrections to minimize future human and economic waste.

2. We advocate the discontinuance of indeterminate sentencing in favor of fixed maximum terms to be imposed by the court at the time of sentencing. This fixed term should be relatively short, not to exceed two years in most cases. It is now generally realized that in this country imprisonment has been used indiscriminately and excessively, and that long sentences not only seriously debilitate men and women but tend to increase the prospects of recidivism.

We urge that certain general principles should govern sentencing practices:

A. The categories of crimes for which imprisonment may be imposed, the criteria for imposing a sentence of imprisonment, and the grounds on which a court may exercise its discretion should be defined with a reasonable amount of precision;

B. Incarceration should be restricted to those offenders whose recorded criminal behavior indicates that the protection of society cannot be afforded in any other way or where surveillance in the community has been without effect;

C. Fines, restitution, community-based treatment facilities, probation and a range of other alternatives should in most cases be preferred to imprisonment as a sanction;

D. The obligation to prove the necessity for restricting freedom should always rest with the state;

E. Courts should be required to state reasons for sentences imposed and an appellate procedure for the speedy review of sentencing decisions should be provided to assure uniformity and fairness.

3. In conjunction with the abolition of indeterminate sentencing, we advocate the elimination of parole as a prison release mechanism. Once the sanction of imprisonment is utilized, the actual length of time to be served shall be fixed by the sentencing court, subject only to being reduced by earning good time. All earned good time should be vested and, in the event of serious misbehavior, should only be forfeited prospectively.

4. We believe that work release programs should be expanded allowing inmates to go outside the prison to obtain productive and gainful employment. In addition, every prisoner must, at least, be given the opportunity to work within the institution at the prevailing wage in jobs and occupations which are useful in the "free world." At present, prisoners are

paid such low wages that many of their families are forced to subsist on welfare. Furthermore, the skills prisoners presently learn are either archaic or of little use in competing for jobs in the outside world.

5. We support the expansion of educational release programs allowing as many prisoners as possible to obtain high school and college degrees. Every prisoner must be given the opportunity to advance himself educationally and to obtain, either inside or outside the institution, a high school diploma or college degree.

6. We believe that the rule of law must replace the secret and unchallenged decision-making process which is the hallmark of most correctional institutions. When an inmate faces the possibility of substantial punishment (either the loss of good time, confinement in punishment cells, a change in security status, or the revocation of any significant right, entitlement or privilege), he or she should have certain minimal due process guarantees including:

A. advance notice of charges;

B. the right to be represented by counsel at the hearing and to present witnesses, confront one's accusers, cross-examine opposition witnesses, and present evidence of innocence;

C. the right to a hearing before an impartial tribunal;

D. the right to a written record of the hearing and the right to appeal this decision to the highest administrative body and the courts if necessary.

7. We believe that, as a general proposition, prisoners should retain all constitutional rights except those absolutely necessary to ensure the maintenance of prison security and discipline. Within this contextual framework prisoners should be allowed to:

A. read what they wish;

B. exercise their religion;

C. correspond by uncensored mail with friends, family and the media;

D. obtain necessary legal assistance;

E. obtain necessary medical and psychiatric attention;

F. be free from cruel and unusual punishment such as isolation in solitary confinement cells, lengthy confinement in maximum security cells, extensive warehousing without involvement in positive treatment programs and, certainly, corporal punishment;

G. pursue other basic civil rights, such as marriage, conjugal and family visits, etc.

8. We believe that arbitrary limitations on the civil rights of ex-offenders must be re-examined and eliminated. Before society can expect an ex-prisoner to become productive and independent, it must allow him the means for achieving independence, i.e., the right to vote, the right to obtain employment, the right to obtain a driver's license, etc.



*The John Howard Association is a private, non-profit prison watchdog agency formed in 1901. Named after the 18th century English humanitarian John Howard, the association advocates more humane and effective correctional policies for incarcerated adults and juveniles in Illinois. The two main purposes of the JHA are to keep the public informed as to prison developments and press for system-wide reforms.*

# Against The Walls

## *The John Howard Association's Policy Statement on Overcrowding in Illinois*

Our nation's prisons and jails are in the midst of a population explosion. Over half a million men, women, and children are today behind bars in the United States, with the number rising daily. The situation in Illinois is, if anything, worse.

- From January 1, 1975 through January 1, 1981, there was a 49% increase in the number of state prisoners in the United States.
- From 1972 through 1978, the net growth in the number of prisoners in state facilities was more than three times as great as the increase in capacity.
- During the period from 1975 through 1981, the number of Illinois state prisoners skyrocketed from 6,672 to 12,473—an increase of 87% in just six years. Since 1974, the prison population has increased by 98% while bed space has only increased 25%.
- The Illinois Department of Corrections (IDOC) estimates that if no steps are taken to alter current policies there will be 16,877 state prisoners by January 1985—a further increase of 33% over the next four years.

Why is this population explosion occurring?

- Imprisonment is *not* due to a comparable rise in the crime rate. The United States Department of Justice reports that from 1973 through 1978 there was no significant increase in the rate of violent crime. Indeed, some categories, notably burglary, showed a significant decrease.
- It is *not* because there is a consensus that prisons are an effective deterrent to criminal activity.
- It is *not* the result of widespread faith in prisons as vehicles for rehabilitation.
- It is the result of more convictions, dispositions, and prison sentences.

tions, dispositions, and prison sentences. For example, in Cook County reported crime increased from 1972 to 1979 by 12.8% and arrests increased by 13.4%, while dispositions increased by 333%, felony convictions by 470%, and imprisonment by 177%.

The reality is that we continue to imprison more and more Americans for longer and longer periods of time because we simply don't know what else to do. In response to widespread concern about criminal victimization, our political "leaders" have failed to provide leadership, our government "planners" have failed to develop plans, the "architects" of our correctional systems have failed to propose strategies. The result is that our prisons are a failure, a failure guided by neither a coherent correctional philosophy nor long-range program to effect such a strategy.

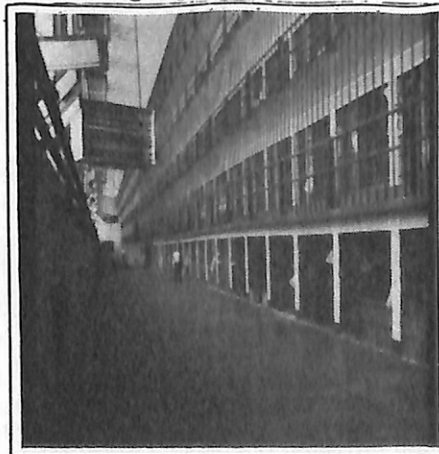
- The General Revenue Fund allocations for the Department of Corrections grew by 363% between 1970 and 1982—an annual rise of over 30%.
- The Department's budget allocation for Fiscal Year 1982, excluding capital development fund

appropriations, is over a quarter of a billion dollars. From 1970 through 1982, the Department has been allocated over one and a half billion dollars.

- During the same period, the Department also received almost half a billion dollars for capital development.

The Illinois General Assembly has pursued a "get tough" policy, ignoring both the financial and the human costs of their actions.

- Current Illinois law requires mandatory prison sentences for minor non-violent offenses. In one tragic example of this policy a defendant was found guilty of stealing a can of oil worth \$1.55 from an auto parts store. The Illinois Supreme Court ruled that he must receive a minimum sentence of three years in prison.
- Illinois continues to imprison offenders who have violated no law, but have failed to comply with technical conditions of parole or mandatory supervised release. In the two-year period from February 1979 through January 1981, the Prisoner Review Board returned over 1,300 men and women to prison for such technical violations.
- The introduction of determinate sentencing in Illinois was supposed to diminish discretion in determining how long an individual prisoner would remain incarcerated. Instead, discretion was shifted from the sentencing court to prison staff. The Department's disciplinary system permits revocation of large amounts of good time for minor infractions. During Fiscal Year 1980, the Department of Corrections added an aggregate of over 486 years to prison sentences



through such revocations.

- Proponents claimed that Illinois House Bill 1500 would have little impact on the total prison population, offsetting the increased sentences for major offenses by reducing sentences for minor offenses. Projections of the impact of the new law recognized that the net effect would be primarily to lengthen sentences, hence increase population.

This has been exacerbated by more recent legislative actions:

- passage of the "three-time loser bill," requiring mandatory life imprisonment upon conviction for a third serious felony.
- adoption of the Habitual Juvenile Offender Act, ensuring lengthy prison sentences for certain juvenile offenders; and
- constant reclassification of offenses to provide longer and longer prison sentences.

One result of this overreliance on incarceration has been severe overcrowding. Illinois' prison capacity of 13,245 will be exceeded in the Fall of 1981. If the nationally recognized standards were applied to IDOC, the capacity would shrink to 8,758 inmates.

Despite the following IDOC efforts to relieve overcrowding, the system is on the brink of a population crisis that requires a comprehensive and long term solution:

- Early release of 4,346 inmates
- Granting meritorious good time of 8,047 days in 1980 and 280,451 days in 1981.
- Reduction in good time revocation of 221,976 days in 1980 and 207,647 days in 1981.
- Increase in good time restored of 31,029 days in 1980 and 44,251 days in 1981.

Human suffering is, however, by no means the only adverse effect of

**The state of Illinois ranks 31st in the country with an imprisonment rate of 96 prisoners per 100,000 citizens. Of the approximately 20,253 inmates in the state, 13,245 are being held in state prison facilities, the remainder in local jails.**

overcrowding.

- Filling prisons beyond a reasonable capacity places an impossible burden of prison staff, resulting in staff "burn-out" and high turnover. The result is staff who are perennially demoralized, overworked, and inexperienced.
- Overcrowding is universally acknowledged to be a significant factor leading to prison violence.
- Prisons are increasingly unable to provide basic life-support services for their burgeoning populations.
- An institution which provides wretched living conditions while being unable to ensure delivery of basic services is incapable of producing productive members of society.

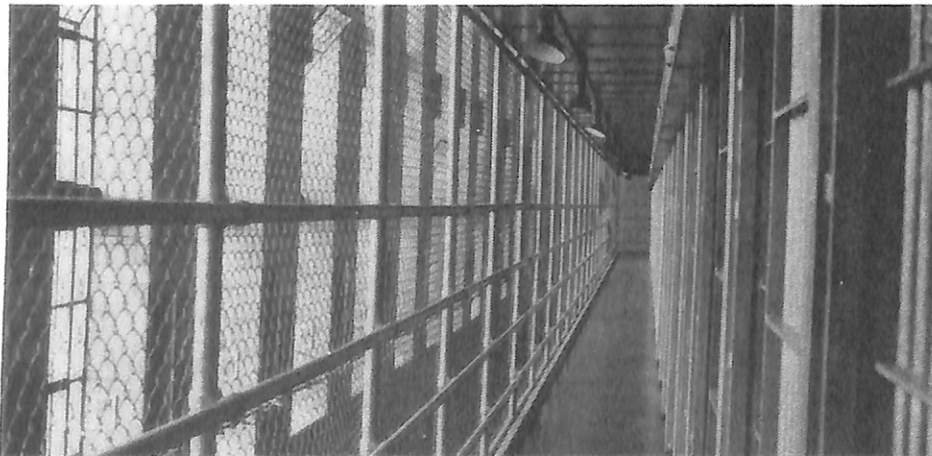
In thirteen years, the Department has spent almost two billion dollars. The population of the adult prisons increased during that period by 72%, while the costs (general revenue fund allocations plus capital development appropriations) rose by 533%. Approximately 66% of the Department's budget, excluding capital development appropriations, currently goes to adult prisons, at a cost of over \$13,500 per year for each prisoner. The annual cost per person for such

non-prison alternatives as probation, in contrast, are as little as \$700 per year.

If the state does not take care of the problems in its prisons, the courts will do it for them. A growing number of corrections professionals have come to question whether it is possible, given current overcrowding, to operate prisons and jails in a constitutional manner. Major prisons in at least 25 states today operate under court order, including the entire state correctional systems in at least nine states. In at least 16 more states, major lawsuits are pending dealing with overcrowding or overall conditions. Hundreds of county jails, including those in four of the nation's five largest cities, are under court order.

#### 1. OPTIONS FOR THE ILLINOIS GENERAL ASSEMBLY

- Eliminate or reduce mandatory minimum sentences
- Allow probation for all offenses
- Eliminate or reduce Mandatory Supervised Release (MSR)
- Prohibit counties from committing misdemeanors to the Illinois Department of Corrections
- Eliminate Mandatory Supervised Release technical violations
- Expand non-incarceration sanctions; including:
  - realistic fines
  - restitution and community service orders
  - special probation conditions
  - direct sentences to community facilities
- Reduce length of sentences across the board for non-violent Class 3 and 4 offenses
- Provide financial incentives





for communities to retain offenders

- Establish for each IDOC facility ironclad capacity limits
- Appropriate funds to expand IDOC's non-prison placement and release alternatives
- Increase local responsibility for offenders, i.e., up to 2 years in county jails

## 2. OPTIONS FOR DEFENSE BAR

- Hold training seminars to expand knowledge of sentencing options
- Advocate for the establishment of defendant-oriented pre-sentence reports
- Utilize private agencies to develop non-custodial sentencing options for individual offenders

## 3. OPTIONS FOR THE JUDICIARY—ADMINISTRATIVE OFFICE OF THE ILLINOIS COURTS

- Develop and promulgate sentencing guidelines
- Conduct sentencing councils and training seminars
- Require mandatory non-waivable pre-sentence investigations
- Increase use of intermittent or shock confinement
- Support the expanded use of intensive probation units
- Order contractual agreements with private sector agencies for treatment of offenders with special needs (e.g., mental illness, drug and alcohol addiction, etc.)
- Develop non-custodial penalties for probation revocation

## 4. OPTIONS FOR ILLINOIS DEPARTMENT OF CORRECTIONS

- Expand community placement options and use them
- Reduce by 50% sanctions for prison rule violations
- Identify renovatable structures suitable for minimum security prisons

The penalties assessed when states lose these suits can cause further expense to the taxpayer—in addition, of course, to the cost of defending against the lawsuit. A federal court in Washington, D.C., for example, recently awarded inmates of Lorton Reformatory one dollar to each inmate for each day that he had been held in the unconstitutionally overcrowded institution. The total amount awarded was \$600,000. In a growing number of instances, the courts have appointed masters responsible to the court to oversee administration of prisons or prison systems; the bill for the services of these

masters is, of course, paid from public funds.

Illinois must not wait for the courts to correct our mistakes. A comprehensive plan for corrections in Illinois must take into account the full range of sentencing alternatives available, including:

- improved and revamped probation;
- community service orders;
- restitution;
- expanded use of work-release;
- expanded use of periodic imprisonment; and,
- expanded use of fines, including introduction of day fines.

Any long-range solution to the crisis in Illinois corrections must include subsidies and financial incentives to local governments to encourage the development of alternative sanctions which are less costly and

more effective than prison.

## RECOMMENDATIONS

1. The John Howard Association calls upon Governor Thompson to establish a Corrections and Criminal Justice Task Force to develop long-range plans for Illinois corrections.
2. The task force should move to rapidly establish a pilot project designed to effect a program of community-based corrections. Careful consideration should be given to the use of split sentences, and to placement in county jails of offenders with sentences of less than two years.
3. The task force should utilize the following National Institute of Corrections overview of options to reduce overcrowding.



A police dog roots through the debris for drugs or weapons during 1979 Stateville shutdown.



State corrections officer with police dog during 1979 Stateville shutdown.

*Swedish crime control offers an example of a national, coordinated, systemic approach to the problems of crime and incarceration. While Sweden is obviously not the United States with its thousands of independent systems, several of the approaches and comparisons presented here are worthy of consideration in American criminal justice circles.*

# Crime control in Sweden

By John R. Snortum

Crime in America has reemerged as a central political concern. A national task force has been appointed to review federal crime control policy, and similar commissions have been established in a number of states.

The United States is not the only nation to agonize about a crime program, for escalating crime rates have afflicted Western Europe as well. Thus in 1973, Sweden established a commission to propose "Measures to Fight Crime and Improve Public Order."

Admittedly, it would be unrealistic to propose that programs from abroad be imported to this country ready made, because of the great differences. In addition, Sweden has a lower crime rate than the U.S. and a much lower rate of violent crime. Nevertheless, the experiences of other countries can give perspective to our own understanding of crime problems and countermeasures.

Discussed here are eight Swedish crime prevention programs grouped in three categories: general crime prevention, crime prevention in public places and motor vehicle accident prevention.

This is followed by (1) a comparison of Swedish and American police practices, (2) implications for America and (3) a summary of conclusions.

## General crime prevention

The 1973 Swedish crime commission recommended the assignment of at least one "crime prevention officer"

to each of the 199 police districts in Sweden. The current national complement is 180 such officers, whose principal function is to advise individuals, groups, and businesses on techniques for reducing victimization from residential burglary, armed robbery, forgery, and consumer fraud.

The residential burglary program is two-pronged. First, the police attempted to cut burglary profits by instituting a national, multi-media campaign to make people aware of their own criminal liability in receiving stolen goods. Second, the crime prevention officers promote what they call "target hardening" by convincing people to install better locks and to engrave their property.

Sweden's property engraving program resembles our "Operation Identification," but the centralized computer system used by Swedish police gives them distinct advantages. Whereas U.S. residents may engrave any of several kinds of personal information on their property, Swedes all use the "person-number" that each individual is assigned at birth, which is also used for everything from bank accounts to vehicle registration.

In the U.S., the likelihood of tracing engraved property decreases the farther it is taken from the owner's community. On the other hand, Sweden's national computer access enables the Swedish police to establish the ownership of engraved property recovered anywhere in the country.

Control check forgery has been the most dramatic success story in general crime prevention. Between 1965 and 1970, there was a 400 percent increase in check fraud in Sweden. The problem seemed to center on the so-called "bank guarantee," whereby the banks agreed to cover all forged and stolen checks passed to retailers, up to the value of 300 kronor (\$60). This reduced the incentive for merchants to insist on proper identification for small checks, knowing that someone else would stand the loss.

The police played an active role in negotiating an agreement between bankers and retailers to abolish the bank guarantee, and to require positive proof of identification in cashing checks. As a result, check forgery decreased by about 80 percent between 1970 and 1972 and has remained relatively constant ever since.

In Sweden's best known crime prevention program, 386 block police officers are assigned to informal neighborhood offices in storefronts or apartment complexes. These officers "know their turf." They walk the beat early in the morning when trucks delivering daily supplies may be left untended, or late in the afternoon when the day's receipts are being counted. The block police have probably counseled most of the delinquent youth in each neighborhood, and they know which of the local alcoholics tend to become cantankerous when drunk. Block police are frequent drop-in visitors to youth clubs and union halls, consequently most community residents are likely to recognize the local officer on sight as "our cop." The program is easily the

**The U.S. is not the only nation to agonize about a crime program.**

*This article has been excerpted with permission from "Police and Crime Prevention: Swedish Perspectives and U.S. Problems," published in the Bulletin of the Institute of Governmental Studies of the University of California (Vol. 22 No. 3). Copyright © 1981 by the Regents of the University of California.*

*John R. Snortum is the George C.S. Benson Professor of Public Affairs at Claremont Men's College, Claremont, California.*



most popular of all crime prevention programs.

### **Crime prevention in public places**

In 1973, the Swedish Parliament passed a law that clarified existing police power to detain for up to six hours any person who "disturbs the public order or constitutes an immediate danger."

Police use of this power has been evaluated. No evidence was found that temporary custody was used to suppress political dissent. Fewer than one percent of those detained contested their detention by complaining to higher police officials, to the courts, or to the ombudsman.

The use of temporary custody in combination with high-visibility patrols as a crime prevention tactic in Stockholm's Humlegarden Park area was responsible for restoring the park for general use, as public order offenses decreased from 1,895 cases in 1973, to 119 cases in 1975.

### **Motor vehicle accident prevention**

Sweden and Norway are reputed to have the toughest drinking-and-driving laws in the Western world.

Swedish law goes beyond the behavioral manifestations of drunken driving to prohibit specified blood alcohol levels, *per se*. The first-offense penalty for driving with a blood alcohol level of 1.5 parts per thousand or more is typically one month in prison, and a second offense within three years ordinarily draws a two-month sentence.

Moreover, drivers whose blood alcohol levels are between 0.5 and 1.5 receive heavy fines, and in addition driving privileges are suspended for

**Since 1960, violent crime in the United States has quadrupled. In 1980, 23,000 people were murdered versus 9,000 in 1960. The same year, 82,000 women were raped versus 17,000 reported in 1960. More than 5,000 people were robbed, up from 108,000, and 650,000 were assaulted, up from 154,000 in 1960.**

**"If there is a single underling theme (in Sweden), it is a relentless opposition to violence in all forms. Any prospect of reducing violence seems to draw support—whether it be strict gun controls, censorship of television violence, hidden cameras . . ."**

one year when blood content is found to be in excess of 0.8 parts per thousand. More people are sentenced to Swedish prisons for drunken driving than for any other offense (34 percent in 1978).

In 1975, Parliament ordered random roadside checks to determine compliance with the law. During the first 35 months of testing, beginning February 1975, 1,182,482 breath analysis samples were obtained, with less than one percent showing blood alcohol levels above 0.5 parts per thousand, and other studies reported even lower rates. When contrasted with much higher U.S. rates these findings suggest the possible deterrent effect of Swedish laws.

### **Comparison of police practices**

Trying to compare a centralized police force of 16,000 Swedish officers with the range of practices in 40,000 U.S. law enforcement agencies must necessarily be impressionistic.

### **Security and violence**

Despite Sweden's reputation for liberalism in criminal justice, Swedish law appears to give a higher priority to community security and a lower priority to individual rights than American law.

Thus, some Swedish crime prevention tactics require significant intrusions on personal privacy and freedom of movement, e.g., random roadside breath checks, covert surveillance, detention without formal charges or judicial review, and nationwide computer banks keyed to the universally assigned "person-number."

Furthermore, there is no tradition of bail for pretrial release. Suspects are normally detained before trial for all serious crimes, and may also be detained if the courts declare a risk that the suspect will abscond, commit new crimes, or try to intimidate witnesses.

What are the trade-offs that motivate Swedish acceptance of such intrusions? If there is a single underlying theme, it is a relentless opposition to violence in all forms. Any prospect of reducing violence seems to draw

support—whether it be strict gun controls, censorship of television violence, hidden cameras in the subways, or preventive detention of individuals who present a significant threat of danger to others. An unnecessary death caused by a drunken driver is considered no less tragic than death at the hands of an armed robber.

Accordingly, Swedes are willing to go along with severe drinking-and-driving penalties. Swedish officers may stop drivers without having to "show cause," and virtually all drivers asked to do so will risk self-incrimination by taking a breath test.

The strength of Sweden's determination to reduce violence is expressed in other ways, such as the voluntary agreement with the toy trade banning the sale of all war toys, including guns and toy soldiers. The rationale for the ban was a belief that availability of such toys implies an acceptance of violent acts as an appropriate way of handling interpersonal or international disputes.

Going even further, Parliament passed a law prohibiting parental use of physical punishment of children (by 259 votes to 6). The immediate goal is reducing the obvious kinds of parental brutality involved in the "battered child syndrome," but a long-term objective is interrupting patterns of childrearing that seem to produce unfeeling adults who readily resort to violence.

### **Constraints on the use of force**

While Sweden gives police broader discretionary powers than the U.S., Swedish police are nevertheless subject to greater restraints on their use of force. Swedish police carry sidearms, but under strict regulations on how they may be used. In a recent four-year period in Stockholm, for example, there were only 17 instances of firing a police weapon, three of them to kill badly injured animals.

Moreover, there is important practical and symbolic significance in the fact that, during a 41-week program of academy training for police recruits, 154 hours of academy time is devoted to psychology, sociology,

and forensic medicine, as against only 38 hours given to weapons training. The police psychology text includes such unconventional topics as yoga breathing techniques for emotional self-control, and the use of humor to defuse volatile situations.

### Communication within the criminal justice system

American law enforcement is typically organized around a "zone defense," with police jurisdictions looking almost exclusively after criminal activities within their own boundaries. This means strong incentives for police to develop investigative leads within their own areas, but little motivation to learn about criminal activity in neighboring cities.

The problem is particularly acute in an area like St. Louis where 100 communities merge almost imperceptibly along high-speed freeways. When a mobile robber or burglar commits successive crimes in perhaps a dozen police jurisdictions, the lack of effective communication greatly reduces the odds that any single agency will develop sufficient leads to solve the cases.

When Swedish police were reorganized and nationalized in 1965, 554 municipal districts were converted into a national force operating through 119 police districts.

Among the more obvious benefits of nationalization were standardization of records, centralization of technical services, provision of more uniform training and equipment, and increased flexibility to deploy personnel across district boundaries in responding to emergencies or shifts

### Comparisons and contrasts

If we exclude the 20 to 30 U.S. police departments that are noted for innovation and research (e.g., Kansas City, Rochester, New York City, Washington, D.C.) it is safe to generalize that the vast majority of American departments are organized around traditional assumptions. They may espouse an active "crime attack model," but they are basically reactive, merely responding to calls-for-service. They seldom modify traditional police roles, and apparently evaluate their operations intuitively rather than experimentally.

In contrast, Swedish police have demonstrated a willingness to experiment with new police tactics, new police roles, and major organizational changes.

In addition, the Swedish police have taken reasonable steps to secure objective evidence about the effectiveness of many of their programs, and they are actively exploiting modern technology—video cameras, radar, computerized information retrieval, and police helicopters.

Instead of waiting for crimes to be reported, they are developing active tactics to deter or prevent crimes, e.g., roadside breath testing, high visibility park patrol, subway police, and preventive detention.

Despite the "hard edge" of these aggressive Swedish police tactics, they seem to be able to preserve their role and public image as "helpers" (e.g., block police, recreation leaders, law-and-justice teachers, emergency rescue teams, and crime prevention consultants).

In short, it may be wrong to as-

sessive, questions about American applications will naturally arise. It should be remembered, of course, that Swedish police practices evolved in a smaller, more homogeneous country with a lower crime rate, and with many social and political values that differ from our own.

Classical traditions of American government would pose problems for some of these Swedish programs that would be difficult to resolve. For example, how could we increase the centralized coordination of police investigations while still retaining the presumed advantages of local control? How could closer collaboration between police and prosecutor be facilitated, while still preserving vital protections against overzealous policing?

Similarly, other Swedish policies seem at first glance to run counter to some conceptions of individual rights. Stringent gun control is alleged by some to abrogate the right to bear arms; the use of hidden subway cameras and centralized computer records might be considered infringements on the right to privacy; and random roadside sobriety checks and preventive detention might conflict with the right to be presumed innocent until proven guilty.

On the other hand, some of the alleged rights and freedoms noted above can be interpreted so as to justify inadequate gun control, prevent the development of effective police information systems, or impede efforts to reduce the death toll from traffic accidents and violent crime. Under present conditions, what happens to other human rights that are equally important? What about the right to safe transit on public highways and the right to use public parks without fear of physical threats and social intimidation? What about the right to life itself?

### Some broader "Lessons from Sweden"

Obviously, there is no Swedish program or combination of programs that can be offered as "the answer" to crime in America.

Nevertheless, whatever may be its other shortcomings, Swedish social democracy provides a more coherent political framework for criminal justice goals, standards, and practices than can be found in the U.S. Some of these "contextual principles" behind Swedish criminal policy deserve further study, because they may suggest constructive alternatives to our present fixation with the policy of

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***"Swedish social democracy provides a more coherent political framework for criminal justice goals, standards, and practices than can be found in the U.S. Some of these . . . deserve further study, because they may suggest alternatives to our present fixation with the policy of giving longer sentences . . .***

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in workloads.

The most important gain for criminal investigation and police research is the nationwide computer system that provides direct access to criminal records, fingerprint files, traffic records, passport control, and files for both stolen and found property.

sume that "crime attack" and "community service" are mutually exclusive. If crime has multiple causes, both philosophies may have their own special areas of effectiveness.

If evidence for the effectiveness of any of these Swedish programs should eventually prove more defini-



giving longer sentences to traditional offenders.

First, Swedish criminal policy provides a broader definition of violence and a more equalitarian targeting of potential offenders. At a time when Americans are preoccupied with "crime in the streets," we need to be reminded that drunk and speeding drivers take far more lives than the usual forms of homicide. "Death-by-drunken-driver" is such a common occurrence in the U.S. that major newspapers do not give prominence to such news.

While Americans are notoriously punitive toward traditional offenders, we are extraordinarily lenient with ourselves. The U.S. has a lenient standard of drunkenness. In all states except Utah and Idaho, the blood-alcohol standard is set at 1.0 parts per thousand, against a level half that high (0.5) in Sweden, Norway, Finland, and the Netherlands, and 0.8 in France, Denmark, and West Germany. Even at the 1.0 level, U.S. enforcement is generally lax, and because court calendars are already overcrowded, drunken drivers are often allowed to plea bargain for lesser charges.

Second, police and prisons are not the first line of defense in Sweden, but the last. Criminal policy is an integral part of a broader political philosophy that construes crime as a social problem rather than as a problem of the "deviant" individuals who offend. Accordingly, greater use is made of nonpunitive means of preventing or reducing crime, e.g., better social planning for decent housing, adequate child care, and equitable distribution of economic opportunities. From this perspective, it becomes more important to prevent an offense than to catch an offender.

Third, Swedish social democracy seems to provide a broader basis for civic "ownership" of the mechanisms of criminal justice than is apparent in the United States. Police and prisoners alike are the orphans of the American political system. We would prefer not to know what is happening inside American prisons, but seem to believe that "whatever it is, they probably deserve it."

In contrast, given the Swedish view of crime as the product of a faulty social structure, there is less need to stigmatize offenders as villains or subject them to their "just deserts" in brutal prisons. Swedish prisoners retain their voting rights, are allowed reasonable compensation for prison work on products sold on the open market, and are given opportunities to join Swedish labor unions upon

their release. (Some suggest that a practical reason for the widespread Swedish interest in maintaining humane prisons is that average citizens recognize that they could someday be inmates themselves if they run afoul of the drinking-and-driving law.)

Police work in the U.S. is cloaked in mystery and bears a slightly disreputable taint. We employ police virtually as a "mercenary force" to handle criminal matters, while the rest of the citizenry stands well clear. We

**"... Swedish police have demonstrated a willingness to experiment with new police tactics, new police roles, and major organizational changes."**

often wink at police improprieties because, after all, crime is a dirty business. And if a public investigation forces attention to such improper tactics, we register shock and further distance ourselves from the police.

Swedish police seem to have wider discretionary powers than U.S. police, but they also appear to be tightly supervised and are subject to clearly defined procedures of internal and external review. Despite occasional criticism of the police in the Swedish press, there is a more pervasive citizen identification that "these are *our* police—to be directed and controlled as we see fit."

### Summary and conclusions

Sweden has shown considerable inventiveness in exploring new police roles and tactics. While there is still only limited evidence on the effectiveness of individual programs, collectively they demonstrate an impressive range and intensity of crime control efforts.

Compared to American police, Swedish police enjoy closer cooperation with the public prosecutor and they are more efficiently organized for regional coordination and for nationwide information retrieval.

Because of Sweden's traditional liberalism, it is not surprising that Swedish police are heavily committed to community service programs in education, recreation, crime preven-

tion, and neighborhood policing.

On the other hand, it is revealing to learn that Swedish police are equally committed to a "crime attack" model, using paramilitary tactics to intercept crimes in progress. These programs include: random roadside breath tests to control drunken driving; high visibility traffic patrols combined with radar surveillance to control speeding; high visibility park patrols combined with preventive detention to control public order offenses; and foot patrol teams combined with video surveillance to control subway crime.

There are some broader principles of police practice and criminal policy in Sweden which offer alternative and perhaps more useful approaches to crime control in the U.S.:

The current emphasis on punishment in American criminal policy may have some short-range benefits for community security, but in the long run seems likely to increase the alienation between offenders and the community. In addition, the current U.S. trend toward "less government" means decreased social services for released prisoners. If the gap is to be filled by other means, help must presumably come from religious organizations, private enterprise, organized labor, and private philanthropy.

While these groups hold enormous potential to change the face of American corrections, there is little likelihood that this fragmented array of resources will become a viable force, because we still lack a national "guiding vision" that is capable of portraying ex-offenders as worthy recipients of our private efforts.

If we are unwilling or unable to translate our reputed American values into actions, the centralized benevolence and governmental programs of Swedish social democracy provide a reasonable alternative.

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# Alternatives to prison

By Margaret Phillips

Americans are justifiably concerned with a rising wave of crime over the past decade. Whether at the local, state or federal levels, prisons are overcrowded, so much that many convicts are discharged early to make room for others.

Confronted with a lack of facilities and demands for longer sentences handed out at a faster pace, the obvious answer is to build more prisons. Will that mean more security for Americans and a lower crime rate? Many studies show the answer is no.

Solid evidence has been around for years that proves that prisons and high incarceration rates do not reduce the rate of crime. As unpopular as this evidence is, it forces us to examine other alternatives.

Unfortunately, magic wands are in short supply. Social conditions such as crime have a multiplicity of causes and cannot be successfully tackled without a coordinated approach taking into consideration the complexity of the individual, of society and of the whole phalanx of economic and political pressures.

Even so, it would be hard to find a worse alternative than prisons in lowering crime. This is a surprising conclusion but the evidence supports it.

William G. Nagel, in a paper entitled "On Behalf of a Moratorium on Prison Construction" (*Crime & Delinquency*, April 1977), presents the results of a fifty-state survey to ascertain what correlations exist between violent crime, incarceration rate and other factors. Nagel, a former executive vice president of the American Foundation Correctional Institute, found no correlation between a

state's crime rate and its rate of incarceration. It suggests that high imprisonment rates do not lessen crime.

He found, however, positive correlations between unemployment and crime, and poverty and crime.

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Alternatives to imprisonment are available before and after the crime is committed. The most wholesome approach would mean an alternative to the potential offender that would enable him or her not to commit the crime. Alternatives after sentencing refer to probation and programs available to the judge in lieu of prison terms. Many programs incorporate a remedial approach, for example, treatment for drug addicts.

Lately, a backlash has emerged spurred by office seekers who play on public fears that such alternatives "coddle criminals." This trend ignores all alternatives and advocates the construction of enough prisons to "solve" the crime problem. Officials fail to point out, however, that most offenders will be eventually paroled after a prison stay that will most likely intensify their violent, anti-social tendencies. The logic of that approach would demand that most pris-

oners would be incarcerated for life. In considering crime and punishment, it must be understood that prisons will always be needed to restrain some people; the deranged or predatory killers who are unreachable and truly dangerous. While we can certainly dream of, and work towards, the utopian setting where those malevolent tendencies will be cured before the crimes occur, society must be protected in the meantime.

But the remainder of the prison population, according to corrections officials quoted by Jessica Mitford in her 1974 classic, *Kind and Usual Punishment*, could benefit greatly from the right combination of counseling, job availability, drug treatment, vocational training and tutoring in basic reading or arithmetic skills. The need is vast. As any issue of *Fortune News* (a paper published by, for, and about ex-offenders) reveals, most people who got such help became productive citizens.

Over the past two decades, many of these alternatives have been implemented (at least in appearance). But even when a sincere effort was institutionalized, the allocation of resources was rarely adequate. Too often, failure was the result. This, in turn, was gleefully exploited by opponents of alternatives. Thus some proponents advocate that unless alternative programs are adequately funded and supported, it is better not to undertake such programs at all.

\* \* \*

Probation is the basis for most alternatives. Probationary status coupled with treatment programs could provide a viable alternative, which in conjunction with shorter prison terms, would bring the United States in line with the more productive and healthier approach of other

**"Solid evidence . . . proves that prisons and high incarceration rates do not reduce the rate of crime."**

Margaret Phillips edits the moratorium bulletin published by the Criminal Justice Task Force of the American Friends Service Committee.

industrialized nations.

Another appealing concept is restitution. It requires the offender to compensate his or her victim, either directly or indirectly. Whether it resembles Missouri's recent law requiring convicted offenders to pay into a common fund out of which victims receive compensation or like Minnesota's more personal approach of having property offenders communicate with their victims to work out payments or other arrangements, concern for the victim is the central issue.

Treatment programs for drug addiction, alcoholism, and emotional problems are another kind of alternative to prison. These are most effective when supplemented by educational and vocational training. With few exceptions, such attempts are coupled with probationary status.

In many countries, a system of day fines is relied on heavily. The amount of the fine is keyed to income in order to be equally burdensome to all offenders. Community service has occasionally been used by innovative judges, but, unfortunately, it has never become a staple of the American judicial system.

Halfway houses, which provide a period for decompression for offenders about to be released, offer a taste of freedom in a structured and guided setting. Such transition stops are crucial for prisoners who have been incarcerated for long periods of time. Many have lost—or never knew—the ability to manage a budget, apply for a job, and the many other demands dictated by urban life.

For juveniles, conditions are grim. Kenneth Wooden's *Weeping in the Playtime of Others* depicts the pain of institutionalized children, and as reported in *Jericho* (No. 24, Spring 1981):

"Each year hundreds of thousands of children are inappropriately held in juvenile detention centers, delinquent training schools, adult jails and other so-called correctional facilities. Evidence of degrading and inhuman abuses practiced in these institutions is prevalent. Research on top of research has documented the debilitating and destructive effects of imprisonment on children. Yet, the secure confinement of young people aged 8 to 15 continues."

Resources are scarce, and few children who need help are getting it. Child psychiatrist Suzanne Singer of Therapy Consultants and Associates in St. Louis says that small size is an essential part of her program's effectiveness. If she accepts more disturbed children than she can feel in-

involved with, therapeutic value is lost, Singer believes.

Jails are overcrowded not only because they house convicts but also many innocents. The pre-trial detainee has yet to be found guilty. The only valid reason for pre-trial detention is the assumption that the accused may flee and not appear in court. Speeding up the trial process would thus be a significant factor in lowering jail population. Increased use of recognizance bonds and more reasonable cash bonds are other, simple but effective, ways to cut overcrowding.

Another alternative not only to reduce the prison population but also reduce the load on the justice system are pre-trial diversions. Under this option, charges are dropped if the offender promises to meet certain conditions, such as keeping a job, getting help for drug or other problems, and so forth.

\* \* \*

Do these alternatives work?

At the very least, they certainly do no worse than prisons to alleviate the incidence of crime, and at considerably less expense. A recent five-volume report entitled *American Prisons and Jails*, compiled by Abt Associ-

## Prisons "a disaster," says Burger

Chief Justice Warren Burger called U.S. prisons "a disaster" in a recent commencement speech to graduates of the George Washington University law school. Burger said "the number of young, functional illiterates in our institutions is appalling," adding, "without these basic skills what chance does any person have of securing a gainful occupation when that person is released and begins the search for employment—with the built-in handicap of a criminal conviction?"

The chief justice suggested two small steps to alleviate the problem which he said would be acceptable in the 1981 economic climate. He first proposed the establishment of a national training academy for prison personnel, so that their training might be upgraded and standardized.

The second step would be to force every illiterate inmate to take basic courses in reading, writing and arithmetic.

ates for the National Institute of Justice concludes, "while new facility construction is often considered the most direct response to prison population pressures, the findings of this study suggest that this option alone is probably unaffordable and may do little to alleviate crowded conditions."

Of course, horror stories hit the headlines when halfway house residents or work-release participants commit crimes. Downplayed are the stories of men and women who learned to read and write, found a job, and are now helping others free themselves from a life of crime. For example, one of the founders of NASCO (Narcotics Service Council, a drug treatment program in St. Louis) is Don Mitchell, a former heroin addict.

The methods which work best appear to be those with least taint of official repression. As the authors of the American Friends Service Committee's *Struggle For Justice* said in 1971, prisons which attempt to rehabilitate play a double role, often contradictory: the prison's first purpose is to detain and punish, and that it does brutally.

But when that same institution then invites trust and candor from prisoners, small wonder that the trust is withheld. And without trust, programs which try to offer badly needed help will fail. Punitive and rehabilitative functions probably cannot be combined in one program.

Even the best alternative programs either do not have the resources to offer a wide range of help or can handle only a limited number of people. Indeed, some critics charge that many supposed alternatives are only extensions of the existing system. Andy Hall, in Southern Coalition Report (*Jericho*, No. 21, Summer 1980) claims that many community-based programs are actually controlled by existing correctional institutions with the same deplorable results.

\* \* \*

The only real alternative to crime and prison, then, may well be drastic structural changes in our environment. Unemployment might represent the single most powerful cause of crime. It brings a host of problems, particularly for disadvantaged youths who try to reconcile their marginal role in a society which values material acquisition and status above all.

Other changes are not so obvious and frequently run counter to public myths. A recent study has shown a perceptible rise in the homicide rate after publicized official executions

(continued on page 22)



# Courts expand prisoner rights

By Donna White

"As a consequence of his crime, a prisoner not only forfeits his liberty, but all his personal rights except those which the law in humanity accords him. At least for the duration of his prison sentence, he is no more than the slave of the state." So said a Virginia judge more than a hundred years ago in *Ruffin v. Commonwealth*.

Since then, life for the convicted offender hasn't changed much. As the prison door slams shut, the offender is not only stripped of his or her liberty, but also voting rights, the right to hold public office, the right to own property, the right to sue, be sued or serve as a juror. Together, they comprise the stark legal realities of imprisonment in America.

Throughout pre-trial detention, the trial itself and post-trial proceedings, constitutional protection of the accused is of paramount concern.

But as the wheels of justice wind down, the convicted felon is ejected into the constitutional void of incarceration, where his or her civil rights face a gloomy existence.

To the courts, imprisonment is considered a custodial task of the state. Not long ago, courts shied away from interfering in the administration of prisons for fear of undermining the legitimate interest in prison discipline and safety.

## Courts become involved

A new court stance was adopted, however, as the civil rights movement of the 1960s forged ahead. Out of that movement came the concern, first, for minority prisoners and later for all prisoners as hideous and inhumane prison conditions were exposed. Suddenly, the courts were confronted with a dire constitutional need demanding their intervention.

In the wake of the 1971 Attica pris-

on uprising, the courts began to regulate the internal operation of prisons, although with some reluctance. Soon, as more and more cases challenging the lack of prisoner rights hit the courts, the judicial "hands off" policy was abandoned.

Prisoner suits challenged almost every conceivable condition of confinement, including disciplinary rules, access to legal materials, medical care, visiting and correspondence, right to counsel, right to safety and even grooming standards for prisoners. As a result, several major decisions in favor of prisoners assured them some protection.

In *Holt v. Sarver* (1978), the court adopted the "totality of conditions" approach to prison conditions. Under this approach various inhumane or unsanitary conditions individually insufficient to violate constitutional standards may have the cumulative effect to deprive a prisoner of his or her constitutional rights.

*Pugh v. Locke* (1976), marked the death knell of inmate servitude. Here the court issued a remedial order that attempted to correct deficiencies in virtually every aspect of prison life: overcrowding, unsanitary conditions, inadequate plumbing, heating, light-

ing and ventilation; insufficient mental and medical health services, inadequate staff resources, recreation, work opportunities and protection from violence.

The civil rights movement further prompted a declaration from the U.S. Supreme Court that prisoners did not lose their constitutional rights as a consequence of incarceration. Under this legal umbrella, far-reaching court decisions came in the early 1970s, partly because political and legal developments of the 1960s had coalesced around prisons, and partly because strikes and rebellions inside prisons grew more radical and frequent.

Lawyers responded to the increased political activity surrounding prisons; prison law became a new specialty. And judges became more sympathetic toward prisoners.

But although the new court decisions made a practical difference for a few prisoners and were sometimes useful in political efforts to change prisons, they had little direct effect on prison life itself. Still, with the opening of various legal avenues, prisoners can continually seek to ameliorate, via the courts, the conditions of their incarceration.

## Missouri prison developments

In Missouri, judicial relief concerning prison conditions was achieved by pursuing several different angles.

First, in order to challenge prison conditions, prisoners had to have access to legal counsel and materials. This was secured through challenges based on the right of due process of law, as applied to states in the 14th amendment.

In *Ex parte Hull* (1941), the Supreme Court prohibited the scrutiny by prison authorities of petitions

**"... as the wheels of justice winds down, the convicted felon is ejected into [a] constitutional void ..."**

for *habeas corpus*. The court determined that the right to petition the court for a redress of grievance was a fundamental right to which inmates were entitled.

Prison administrators, however, often prohibited or discouraged "jailhouse" lawyers from assisting other inmates in their applications for writs. The court in *Johnson v. Avery* (1969) outlawed this practice observing that prisoners had little or no access to professional legal representation or law libraries in preparing complaints.

Thereafter, in *Procunier v. Martinez* (1974), the court held on due process grounds that the state could not prohibit attorneys from employing law students and paraprofessionals from interviewing their client-inmates.

Later, in *Bounds v. Smith* (1977), the Supreme Court went further and imposed an affirmative duty on the state to provide viable legal access to the courts by requiring prison authorities to provide adequate legal assistance to prisoners which included law libraries or assistance from persons trained in law.

A second approach was to petition for *habeas corpus* relief based on inhumane prison conditions. Traditionally, a writ of *habeas corpus* would be brought by a person who was supposedly illegally confined or restrained of his or her liberty. Officials would have to produce the cause for incarceration. Later it was used to challenge some defect in the arrest or trial



proceedings or jurisdiction of the sentencing court.

Finally, in a major Missouri case, *McIntosh v. Haynes* (1977), the court allowed the use of *habeas corpus* as a mechanism to bring eighth amendment violations (of cruel and unusual punishment) before the court. Prior to this case, Missouri courts had summarily dismissed *habeas corpus* procedures attacking prison conditions on the grounds that they failed to state a cause of action.

After *McIntosh*, an inmate in Missouri now had two avenues of *habeas corpus* relief to challenge conditions of his or her confinement. The prisoner first may apply for relief in the

state court. Then, if unsatisfied, the prisoner may pursue a writ in federal court upon exhaustion of all state remedies.

Under *habeas corpus* relief an aggrieved prisoner files a petition in court alleging aspects of confinement violate his or her rights against cruel and unusual punishment. If the petitioner produces sufficient evidence to back up the charges, the court grants the writ.

The writ is then forwarded to the officer in charge of the prisoner, who files a return stating the reasons for confinement. The prisoner is turned over to the custody of the court. Finally, after hearing the prisoner's testimony plus that of other witnesses, the court disposes of the case. Further remedy in federal courts may be sought by a prisoner who is aggrieved by the state decision.

While *habeas corpus* relief applies to a prisoner's physical well-being, the courts have not addressed prison rules or regulations which impair the exercise of free speech or religion.

While the *habeas corpus* relief addresses specific instances of prisoner deprivation, it fails to tackle the larger problems of overcrowding and unsanitary conditions in the institution.

In the *McIntosh* case, the American Civil Liberties Union (ACLU) filed a comprehensive class action suit on behalf of all inmates in the Missouri State Penitentiary. The petition sought declaratory and injunctive relief for violations of constitutional rights. Complaints and reliefs fell into two separate areas: overcrowding and unsanitary conditions; and inadequate medical care.

After three years of litigation, Judge Elmo B. Hunter said that almost half of the inmates were living in conditions "which this court views as intolerable, inhumane and totally unreasonable in light of modern consciousness and shocking to the conscience of this court." Hunter subsequently ordered a substantial remedial plan into effect. An outgrowth of that order to reduce overcrowding resulted in the recent completion of the new prison facility near Pacific, Missouri.

Eighth amendment challenges to prison conditions are certain to continue as a result of major inmate victories such as in the *McIntosh* case.

## Historical oddities

Domestic animals were tried in the secular court versus their untame brethren who were tried in the ecclesiastical court. Pigs were often accused of murdering infants (which is a bit suspicious considering the infanticidal tendencies among women in the middle ages). If a guilty verdict was reached, the pig was usually dressed in a man's clothing then hanged in the public square.

The executioner always held an exalted place in society, even if he was personally abhorred by the mobs. England produced the most infamous line of executioners, including one Edward Dennis. During his reign as public executioner, Dennis was unfortunate enough to be caught among the pillagers during the Gordon riots of the late 1770s. Amidst a great furor, he was found guilty and sentenced to death, prompting the judge to remark, "He who has swung so many, must at last swing himself!" Dennis was later granted a free pardon so that he "may hang his fellow rioters."

When Spanish inquisitors came to England in the 16th century to spread the various techniques used in extracting a confession from heretics, they complained that the country lacked both the implements of torture and people trained in their use. This, among other reasons, prevented the Inquisition from ever gaining a foothold in England.

*Donna White is an assistant professor of Administration of Justice at the University of Missouri-St. Louis, and a member of the Missouri Bar Association.*

## coming into focus

### PREACHER PUFFERY? Are televangel-

ists blowing a lot of steam when talking about their audiences? Yes, say two new studies that found press estimates of the TV preachers' audience of 40 to 130 million to be grossly off from their real audience figures of seven to ten million. It seems the press routinely excepts evangelical audience figures, while ignoring other concrete measures of viewership. William Martin at Rice University and Jeffrey Hadden at the University of Virginia have both concluded in separate studies that the American public has had some interesting myths foisted upon them by overzealous media in search of dramatic numbers.

### SOBER-UP PILL? Drunks of the world may yet

have a prayer. Medical researcher Ernest Noble has been working diligently on what he calls an "amethystic," or sober-up pill. Noble's work is presently focused on a drug known as ephedrine, which would arouse the brain's catecholamine system, thereby releasing adrenaline into the blood. But don't hold your breath, Noble doesn't expect to have a general purpose salvation for the besotted for ten years.

**ARTIFICIAL BLOOD** Synthetic blood is coming of age, reports *Forbes*. Developed by a Japanese firm, the synblood is compatible with all blood types and is applicable to about 75 percent of all transfusion needs. Known as Fluosol-DA, the manufacturers see its use when real blood is unavailable such as at the scene of an accident or in the emergency room.

**PARENT RIGHTS** Parents have rights too, as the latest edition in a handbook series produced by the American Civil Liberties Union explains. The *Rights of Parents* handbook covers every legal aspect of parenthood including such topics as divorced, separated, unwed, gay and foster

parentage. Norman Dorsen, ACLU president and editor of the series, said, "The rights of parents and the integrity of the family are firmly rooted in the Constitution, yet they are often taken for granted and seldom explained. This handbook provides needed guidance at a time when we can no longer afford to take our parental and familiar rights for granted." The guide is written in a question-and-answer format and is available from the Literature Department, ACLU, 132 West 43rd Street, New York, NY 10036 (\$2.50).

## Books

### Educational handbook on KKK to aid schools

**Violence, the Ku Klux Klan and the Struggle for Equality** by Dr. Robert B. Moore, Council on Interracial Books for Children, 1841 Broadway, New York, N.Y. 10023 (\$4.95)

*Violence, the Ku Klux Klan and the Struggle for Equality* is a first-of-its-kind informational and instructional kit on the Ku Klux Klan. Available for use by schools, this junior and senior high school curriculum was developed by the Council on Interracial Books for Children, the National Education Association and the Connecticut Education Association.

"The Klan seeks to spread racial hatred and segregation in our nation's schools," says Dr. Robert B. Moore, principal writer of the handbook and staff member of the New York-based Council on Interracial Books for Children. "Schools with racial tensions become a target of Klan efforts to exacerbate those tensions. Klan recruitment efforts directed at 10 to 17-year old white students have been reported from Boston to Los Angeles, from Birmingham to Oklahoma City."

The three educational organizations developed the curriculum to meet the needs of teachers who expressed concern about the lack of instructional materials that would help them effectively respond to students' questions and concerns about the Klan.

The 72-page handbook includes a concise background information on the history and role of the Ku Klux Klan, including a variety of resource materials consisting of news clippings, poetry, excerpts from fictional and non-fictional books, and Congress-

### VIOLENCE, THE KU KLUX KLAN AND THE STRUGGLE FOR EQUALITY

AN INFORMATIONAL AND INSTRUCTIONAL KIT



Prepared and Published by  
The Connecticut Education Association  
The Council on Interracial Books for Children  
The National Education Association

sional testimony, as well as an annotated bibliography and glossary.

"The Ku Klux Klan," said Moore, "is a white terrorist organization formed after the Civil War that used violence and intimidation in its efforts to re-impose white supremacy in the South."

Now, according to Moore, Ku Klux Klan membership and terrorism are once again on the rise. "Klan murders, beatings, violence and intimidation are directed against a variety of groups, particularly blacks, Jews, immigrants from Latin America and Southeast Asia, and lesbians and gay men."

The handbook presents numerous instances of recent Klan violence, notes the existence of Klan paramilitary training camps in various parts of the country, and mentions a 55 percent increase in Klan-related cases investigated by the U.S. Justice Department in 1980 from 1979.

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